

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MYRIAM ZAYAS,

Plaintiff(s),

V.

## DEPARTMENT OF CHILDREN YOUTH AND FAMILIES,

Defendant(s).

CASE NO. 2:22-cv-01085-TL

ORDER DISMISSING  
42 U.S.C. § 1983 *MONELL*  
CLAIMS

This matter is before the Court on its own motion. On July 30, 2022, Plaintiff filed an application to proceed *in forma pauperis* (Dkt. No. 1) with a proposed *pro se* complaint (Dkt. No. 1-1) against Defendant Department of Children Youth and Families (“DCYF”), an agency of the state of Washington. Plaintiff’s application was granted (Dkt. No. 4), and her Complaint was entered on the docket on August 4, 2022 (Dkt. No. 5). Having reviewed Plaintiff’s Complaint and for the reasons stated below, the Court finds that Plaintiff fails to state a claim upon which relief may be granted for some of her purported causes of action and DISMISSES with prejudice all claims *except* for her facial and as-applied constitutional challenge to RCW 13.34.030(6)(c).

1           The Court's authority to grant *in forma pauperis* status derives from 28 U.S.C. § 1915.  
 2 Upon permitting a plaintiff to proceed *in forma pauperis*, the Court has a duty to dismiss any  
 3 causes of action that fail to state a claim upon which relief may be granted. *See*  
 4 28 U.S.C. § 1915(e)(2)(B); *see also Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000)  
 5 (“[S]ection 1915(e) applies to all *in forma pauperis* complaints, not just those filed by  
 6 prisoners”).

7           “The legal standard for dismissing a complaint for failure to state a claim under  
 8 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as when ruling on dismissal under Federal Rule of  
 9 Civil Procedure 12(b)(6).” *Day v. Florida*, 2014 WL 1412302, at \*4 (W.D. Wash. Apr. 10, 2014)  
 10 (citing *Lopez*, 203 F.3d at 1129). Rule 12(b)(6) requires courts to assume the truth of factual  
 11 allegations and credit all reasonable inferences arising from those allegations. *Sanders v. Brown*,  
 12 504 F.3d 903, 910 (9th Cir. 2007). Plaintiff must plead factual allegations that “state a claim to  
 13 relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 568 (2007). Where  
 14 a plaintiff proceeds *pro se*, courts must construe the complaint liberally. *Johnson v. Lucent  
 15 Techs. Inc.*, 653 F.3d 1000, 1011 (9th Cir. 2011) (citing *Hebbe v. Pliler*, 627 F.3d 338, 342  
 16 (9th Cir. 2010)).

17           Although Plaintiff’s specific causes of action are not perfectly clear, her claims appear to  
 18 arise from various dependency proceedings involving Plaintiff’s children since 2009. Dkt. No. 5  
 19 at 9. Construing the complaint liberally, as the Court must (*Johnson*, 653 F.3d at 1011), the  
 20 Court understands Plaintiff to allege that Defendant, by and through its agents and employees,  
 21 have actively enforced an unconstitutional state statute, RCW 13.34.030(6)(c), in order to  
 22 deprive her of constitutionally protected parental custody rights (Dkt. No. 5 at 7-8). Plaintiff  
 23 alleges the statute is unconstitutional on its face and as applied throughout her various  
 24 dependency proceedings. *Id.* at 5, 7-8. Plaintiff also appears to raise individual civil rights claims

1 under 42 U.S.C. § 1983 and *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978), alleging due  
 2 process and equal protection violations based on Defendant's unwritten custom or policy of  
 3 knowingly enforcing an unconstitutional state law to deprive her of her rights. *Id.* at 8, 11.  
 4 Plaintiff seeks only declaratory and injunctive relief, she does not appear to include a claim for  
 5 monetary relief in her complaint. *Id.* at 5, 12.

6 Since 2020, Plaintiff has filed 15 different lawsuits (not including the present case)  
 7 against various defendants in this district.<sup>1</sup> In nearly all of these cases, Plaintiff alleges § 1983  
 8 civil rights violations arising from the state's dependency proceedings. Most pertinently, in  
 9 *Zayas v. Owens et al.*, the parties entered a stipulation dismissing all of Plaintiff's civil rights  
 10 claims "with prejudice and on the merits" against all defendants, including DCYF, in which  
 11 Plaintiff agreed and acknowledged "that she cannot later file another lawsuit asserting the same  
 12 claims or causes of action against defendant[] DCYF." *Owens et al.*, 2:20-cv-00650-TLF, Dkt.  
 13 No. 44 at 1-2. The Court dismissed that action with prejudice as stipulated. *Id.* at Dkt. No. 45.  
 14 Similarly, *Zayas v. Department of Children Youth & Families et al.* was dismissed with  
 15 prejudice upon the parties' stipulation, wherein again Plaintiff agreed and acknowledged "that  
 16 she cannot later file another lawsuit asserting the same claims or causes of action against . . .  
 17 DCYF." *Department of Children Youth & Families et al.*, 2:20-cv-00981-JLR-TLF, Dkt.  
 18 Nos. 26, 30. In both of these cases, Plaintiff raised claims under § 1983 alleging that DCYF  
 19 denied her constitutional due process and equal protection rights during her still ongoing state  
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21 <sup>1</sup> See *Zayas v. Owens et al.*, 2:20-cv-00650-TLF (filed Apr. 29, 2020); *Zayas v. Messitt*, 2:20-cv-00747-JCC (filed  
 22 Jun. 10, 2020); *Zayas v. Department of Children Youth & Families et al.*, 2:20-cv-00981-JLR-TLF (filed Jun. 18,  
 23 2020); *Zayas v. Krause et al.*, 2:20-cv-01001-MAT (filed Jun. 25, 2020); *Zayas v. Multicare Hospital*, 2:21-cv-  
 24 00350-RSL (filed Mar. 15, 2021); *Zayas v. Boyett*, 2:21-cv-00581-RSM (filed Apr. 29, 2021); *Zayas v. Nguyen et al.*, 2:21-cv-00746-JCC (filed Jun. 5, 2021); *Zayas v. Walton et al.*, 2:22-cv-00018-MJP (filed Jan. 4, 2022); *Zayas v. Becker*, 2:22-cv-00120-MJP (Jan. 30, 2022); *Zayas v. Foxall*, 2:22-cv-00229-JCC (filed Feb. 27, 2022); *Zayas v. Foxall*, 2:22-cv-00327-TL (filed Mar. 17, 2022); *Zayas v. Foxall*, 2:22-cv-00564-TL (filed Apr. 24, 2022); *Zayas v. Hunter et al.*, 2:22-cv-00642-RSM (filed May 9, 2022); *Zayas v. Ramos et al.*, 2:22-cv-00943-JLR-TLF (filed Jul. 6, 2022); *Zayas v. Helson et al.*, 2:22-cv-00955-RAJ (filed Jul. 10, 2022).

1 court dependency proceedings. Plaintiff pleads no new facts or changes in the law since those  
2 previous cases that would justify resurrecting claims that she previously agreed to dismiss with  
3 prejudice.

4 The Court therefore finds that Plaintiff has failed to plausibly state an individual civil  
5 rights claim under § 1983 against Defendant upon which relief can be granted. Courts will  
6 typically allow a *pro se* plaintiff to amend a Complaint in lieu of dismissal unless amendment  
7 would be futile because no set of facts can cure the deficiencies. *Yagman v. Garcetti*, 852 F.3d  
8 859, 867 (9th Cir. 2017). The Court finds that amendment in this instance would be futile.

9 Accordingly, the Court ORDERS:

- 10 1. Plaintiff's 42 U.S.C. § 1983 *Monell* claims are DISMISSED WITH PREJUDICE; and  
11 2. The Clerk is directed to issue summons.

12 Dated this 9th day of August 2022.

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14 Tana Lin  
15 United States District Judge  
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